

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALFORD J. WINKFIELD, ID# 1664170,

Petitioner,

v.

**WILLIAMS STEPHENS, Director
Texas Department of Criminal Justice,
Correctional Institution Division,**

Respondent.

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Civil Action No. **3:13-CV-3651-L**

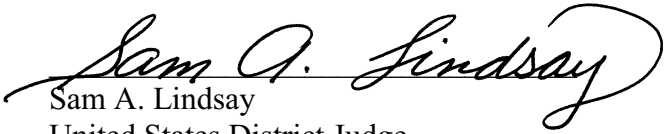
ORDER

Before the court is Alford J. Winkfield's ("Petitioner") Motion for Judicial Notice (Doc. 12), filed May 5, 2015. This section 2254 habeas case was previously dismissed with prejudice on November 12, 2013, as barred by the statute of limitations. On May 8, 2015, Magistrate Judge Irma Carrillo Ramirez ("Magistrate Judge Ramirez") entered Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"), recommending that Petitioner's Motion for Judicial Notice be construed as a successive habeas petition under 28 U.S.C. § 2254 and transferred to the United States Court of Appeals for the Fifth Circuit. Petitioner filed objections to the Report.

After considering the motion, file, record in this case, objections, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **construes** Petitioner's Motion for Judicial Notice as a successive habeas petition under 28 U.S.C. § 2254. When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. Accordingly, the court **directs** the clerk of the court to: (1) term Petitioner's Motion for

Judicial Notice (Doc. 12); (2) open a new habeas case for administrative purposes only; (3) file Petitioner's Motion for Judicial Notice (Doc. 12) in the new case as a section 2254 petition with a filing date of May 5, 2015; (4) assign the new case to this court and Magistrate Judge Ramirez; (5) file a copy of the Report (Doc. 13) and this order accepting the findings and conclusions of the magistrate judge in the new case; and (6) and, without further judicial action, immediately **transfer** Petitioner's section 2254 habeas petition (Doc. 12) to the Fifth Circuit for determination.

It is so ordered this 1st day of June, 2015.


Sam A. Lindsay
United States District Judge